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Attorneys for Defendant
C.H. ROBINSON COMPANY, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH WOOD, on behalf of herself and all others similarly situated,

Plaintiff,

v.

C.H. ROBINSON COMPANY, INC, a Minnesota Corporation; and DOES 1-50, inclusive,

Defendants.

Case No. 3:25-cv-294

DEFENDANT C.H. ROBINSON COMPANY, INC.'S NOTICE OF REMOVAL OF CIVIL ACTION TO UNITED STATES DISTRICT COURT

[Filed concurrently with Civil Cover Sheet; Notice of Pendency of Other Action or Proceeding; Certification of Conflicts and Interested Entities or Persons; Declaration of Ariel Kumpinksy in Support of Removal; Declaration of Stacey M. Shim in Support of Removal; and Declaration of Chris Gerst in Support of Removal]

Complaint Filed: November 27, 2024

TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AND TO PLAINTIFF ELIZABETH WOOD AND HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT defendant C.H. Robinson Company, Inc. ("Defendant"), by and through the undersigned counsel, hereby removes to the United States District Court for the Northern District of California, the above-entitled action from the Superior Court of the State of California for the County of Contra Costa, originally filed as Case No. C24-03249 pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. §§ 1332(d)(2), 1441(b), 1446, and 1453 because (1) Plaintiff and other members of the putative class are citizens of a State different from any defendant; (2) the number of members of all proposed plaintiff classes in the aggregate is over 100; and (3) the matter in controversy exceeds the sum or value of $5,000,000 exclusive of interest and costs. In support of such removal, Defendant states as follows[1]:

I. PROCEDURAL BACKGROUND

1. On November 27, 2024, Plaintiff Elizabeth Wood ("Plaintiff") filed a putative Class Action Complaint in the Superior Court of the State of California for the County of Contra Costa, entitled, "*Elizabeth Wood, on behalf of herself and all others similarly situated, Plaintiff vs. C.H. Robinson Company, Inc, a Minnesota Corporation; and DOES 1-50, inclusive, Defendants*," Case No. C24-03249. (*See* Decl.of Stacey M. Shim ("Shim Decl."), ¶ 2, Ex. A [Compl.[2]].)

2. The Complaint alleges the following causes of action: (1) failure to pay all overtime wages; (2) meal period violations; (3) rest period violations; (4) failure to pay all sick time; (5) wage statement violations; (6) failure to reimburse necessary

[1] Defendant denies all of Plaintiff's allegations and denies that class treatment is appropriate for this action. All estimates and calculations supporting the removal of this action are based solely on Plaintiff's allegations as pled in the Complaint. Such estimates and calculations are not admissions that any such amounts—or any amounts—are owed to Plaintiff or the putative class.

[2] Hereinafter all references to the Complaint are to Exhibit A.

business expenses; and (7) unfair competition. (Shim Decl., ¶ 3, Ex. A.)

3. The summons, civil case cover sheet, and notice of assignment were served on Defendant on December 9, 2024. (Shim Decl., ¶ 4, Ex. B.)

4. Pursuant to 28 U.S.C. § 1446(a), a true and copy of any and all process, pleadings, and orders served upon Defendant are attached as **Exhibits A and B** filed concurrently herewith. This notice of removal is timely pursuant to 28 U.S.C. § 1446(b) because Defendant has removed this action within 30 days of being served with the Complaint.

5. Plaintiff has not yet identified any of the fictitious "Doe" defendants referenced in the Complaint, and the citizenship of "Doe" defendant is disregarded for the purposes of removal. *See* 28 U.S.C. § 1441(a); *McCabe v. General Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987).

II. CLASS ACTION FAIRNESS ACT JURISDICTION

A. Basis of Original Jurisdiction.

6. The Court has original jurisdiction over this action pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1332(d). As such, this action may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441, 1446 and 1453.

B. Number of Putative Class Members.

7. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d) if, in addition to the other requirements of § 1332(d), the action involves a putative class of at least 100 persons.

8. Plaintiff alleges this putative class action on behalf of "[a]ll current and former non-exempt employees who work or worked for Defendant in California during the four years immediately preceding the filing of the Complaint through the date of trial." (Compl., ¶ 35).

9. Thus, assuming that the putative class, as defined by Plaintiff's Complaint, comprises all non-exempt employees employed by Defendant in

California at any time from November 27, 2020, to the present, the putative class includes at least 564 persons. (Decl. of Ariel Kumpinksy ("Kumpinsky Decl.") ¶ 6.) Although Defendant denies that class treatment is appropriate, Plaintiff's proposed class, if certified, would consist of more than 100 members. Therefore, the CAFA class size requirement is met.

C. Diversity of the Parties.

10. To remove under CAFA, the removing party must demonstrate "minimal diversity," *i.e.*, "any member of a class of plaintiffs is a citizen of a State different from any defendant[.]" 28 U.S.C. § 1332(d)(2)(A). The minimal diversity requirement of 28 U.S.C. 1332(d) is met in this action because the citizenship of at least one class member is diverse from the citizen of at least one defendant. *Id*. at (d)(2)(A).

11. Citizenship of Plaintiff. Plaintiff, a putative class member, is a citizen of the State of California. (Compl., ¶ 9).

12. Citizenship of Defendant. Pursuant to 28 U.S.C. § 1332(c), "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business." The Supreme Court has held that "'principal place of business' [as contained in section 1332(c)] is best read as referring to the place where a corporation's officers direct, control, and coordinate the corporation's activities." *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1184, 1192 (2010). The Court further clarified that the principal place of business was the place where the corporation "maintains its headquarters – provided that the headquarters is the actual center of direction, control, and coordination." *Id.* A company's principal place of business refers to the corporation's "nerve center, which is normally its headquarters." *Id*. at 1192-93.At all times on or after the date this action was filed, C.H. Robinson Company, Inc. has been incorporated under the laws of Delaware and maintained its principal place of business in Minnesota. (Decl. of Chris Gerst ("Gerst Decl."),

¶ 3.) Thus, C.H. Robinson Company, Inc. is a citizen of Minnesota and Delaware but not California. Because Plaintiff is a citizen of California, and Defendants are not citizens of California, minimal diversity exists. *See* 28 U.S.C. § 1332(d)(2)(A).

D. Amount in Controversy

13. To remove a class action under CAFA, the defendants must establish "by preponderance of the evidence" that the amount in controversy exceeds $5 million. *See Rodriguez v. AT&T Mobility Servs. LLC*, 728 F.3d 975, 981 (9th Cir. 2013). This means the removing Defendants must "produce underlying facts showing only that it is *more likely than not* that the amount in controversy exceeds $5,000,000.00, assuming the truth of the allegations plead in the Complaint." *Muniz v. Pilot Travel Ctrs. LLC*, 2007 WL 1302504, at *5 (E.D. Cal. May 1, 2007) (emphasis in original). Based on the unsupported, conclusory allegations in the Complaint, the alleged amount in controversy exceeds, in the aggregate, Five Million Dollars ($5,000,000), as demonstrated below.

14. In considering the evidence submitted by the removing defendant, the Court must "look beyond the complaint to determine whether the putative class action meets the [amount in controversy] requirements" adding "the potential claims of the absent class members" and attorneys' fees. *See Rodriguez*, 728 F.3d at 981.

(a) The amount placed in controversy by Plaintiff's First Cause of Action – Failure to Pay Overtime Wages exceeds $2,580,749.

15. In support of her first cause of action Plaintiff alleges: "Plaintiff and other non-exempt employees worked regular shifts that lasted longer than 8.0 hours in a workday and resulted in non-exempt employees regularly working more than 40 hours in a workweek." (Compl., ¶ 18.) Plaintiff further alleges that: "Defendant uniformly failed to properly calculate and pay overtime wages at the proper legal rate due to Defendant's failure to include all forms of compensation/remuneration, including, but not limited to, shift pay, non-discretionary bonuses, commissions, stipends, incentives, and all other forms of remuneration in calculating the regular

rate of pay for purposes of overtime compensation." (*Id.*)

16. Plaintiff further alleges that the failure to pay overtime wages as alleged in the First Cause of Action constitutes unfair competition within the meaning of Business and Professions Code Section 17200. (Compl., ¶ 75.) The statute of limitations for such a claim is four years. Cal. Bus. & Prof. Code § 17208 ("Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued"); *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 178-179 (2000) (the four-year statute of limitations applies to any UCL claim, notwithstanding that the underlying claims have shorter statutes of limitation).

17. Based on a review of Defendant's business records, putative class members worked approximately 59,389 work weeks during the time period November 27, 2020, to April 13, 2024 and received an average base hourly rate of $28.97. (Kumpinskly Decl. ¶ 6).

18. Assuming, *arguendo*, the truth of Plaintiff's allegations, putative class members are entitled to recover at least $2,581,639 for unpaid overtime wages, assuming a conservative assumption of one hour of unpaid overtime wages per workweek: $28.97 (average base hourly rate for putative class members during the four-year period) x 1.5 (overtime multiplier) x 1 (hour of unpaid overtime per workweek) x 59,389 (workweeks) = **$2,580,749**. *See Soto v. Grief Packaging, LLC*, 2018 WL 1224425, *3 (C.D. Cal. Mar. 8, 2018)(finding it reasonable to assume one hour of unpaid wages per employee per workweek where plaintiff alleged that defendant failed to pay him and the class members for all hours worked on a consistent and regular basis); *Reyes v. Carehouse Healthcare Center, LLC*, 2017 WL 2869499, *4 (C.D. Cal. July 5, 2017) (defendant's estimate of one hour of unpaid overtime wages per workweek was reasonable where plaintiff alleged that defendants engaged in a "regular practice of willfully, unfairly and unlawfully depriving plaintiff and the class members of compensation.).

(b) The amount placed in controversy by Plaintiff's Second and Third Causes of Action – Failure to Provide Meal and Rest Periods exceeds $3,440,998.

19. In support of her second cause of action Plaintiff alleges: "Plaintiff and other non-exempt employees were denied compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to Defendant's uniform meal period policies/practices, operational requirements, and work demands, Plaintiff and other non-exempt employees often could not take timely and uninterrupted net 30-minute first meal periods before the end of the fifth hour of work." (Compl., ¶ 25.) Plaintiff further alleges "when Plaintiff and other non-exempt employees worked more than 10.0 hours in a shift, they were not always allowed and permitted to take a mandated second meal period before the end of the tenth hour of work in violation of the Labor Code and applicable Wage orders. (*Id*.) Plaintiff concludes by alleging: "In addition, for each missed or non-compliant meal period, Defendant failed and continues to fail to maintain a mechanism by which non-exempt employees were paid meal period premiums at the "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) and Labor Code § 226.7. (*Id*., ¶ 26.)

20. In support of her third cause of action Plaintiff alleges: "Plaintiff and other non-exempt employees were not provided with all 10-minute rest periods for every four hours worked, or a major fraction thereof, due to Defendant's uniform rest period policies/practices, operational requirements, and work demands." (Compl., ¶ 28.) Plaintiff also alleges that: "As a result, Plaintiff and other non-exempt employees were and are often unable to take a net 10-minute duty-free rest period for every major fraction of four hours worked. This includes a second rest period for shifts in excess of six hours and a third rest period for shifts in excess of 10.0 hours in a workday." (*Id*.) Plaintiff concludes by alleging that: "Each time non-exempt employees could not take a compliant rest period, Defendant failed and continues to fail to adequately pay rest period premium payments at the "regular rate of pay" as required by Labor Code § 226.7. (*Id*., ¶ 29.)

21. Plaintiff further alleges that the failure to provide meal and rest periods alleged in the Second and Third Causes of Action constitutes unfair competition within the meaning of Business and Professions Code Section 17200. (Compl., ¶ 75.)

22. Under California law, employees who miss meal and rest periods are entitled to an additional hour of pay for each day that a meal or a rest period is missed. Cal. Lab. Code § 226.7(c). "[T]he statute [permits] up to two premium payments per workday—one for failure to provide one or more meal periods, and another for failure to provide one or more rest periods." United Parcel Serv. Wage & Hour Cases, 196 Cal. App. 4th 57, 69 (2011). This additional pay is properly considered in determining the amount in controversy. *See, e.g., Al-Najjar v. Kindred Healthcare Operating, Inc.*, 2017 WL 4862067, at *4 (C.D. Cal. Oct. 26, 2017). As mentioned above, because Plaintiff alleges that the failure to pay meal and rest break premiums constitutes unfair competition within the meaning of Section 17200, the applicable statute of limitations for the meal and rest break violation claims is four years. Cal. Bus. & Prof. Code § 17208 ("Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued"); *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 178-179 (2000) (the four-year statute of limitations applies to any UCL claim, notwithstanding that the underlying claims have shorter statutes of limitation).

23. When determining the amount placed in controversy by a plaintiff's meal period allegations, like those alleged by Plaintiff in the Complaint, an estimate of a 20% meal period violation rate is both reasonable and conservative. *See e.g., Chavez*, 2019 WL 1501576, at *3 ("Courts in this Circuit, including in this District, have frequently upheld at least a 20% violation rate for purposes of CAFA amount in controversy calculations where the plaintiff does not specify the frequency of the alleged missed meal or rest periods; collecting cases); *Phoung v. Winco Holdings, Inc.*, No. 2:21-CV-2033-MCE-JDP, 2022 WL 3636369, at *5 (E.D. Cal. Aug. 23, 2022) (denying remand; "the inclusion of language like "from time to time" and

"often" further support defendant's "assumption of one missed meal break and one missed rest break per week to be reasonable"); *Oda v. Gucci Am., Inc*., Nos. 2:14-CV-7468-SVW (JPRx), 2:14-CV-07469-SVW (JPRx), 2015 WL 93335, at *5 (C.D. Cal. Jan. 7, 2015) (finding defendant's assumption of a 50% violation rate reasonable where plaintiff's complaint alleged that defendant maintained a policy or practice of not paying meal or rest premiums, that class members sometimes did not receive all of their meal periods and that not all rest periods were given timely); *Cavada v. Inter-Cont'l Hotels Grp., Inc*., No. 19CV1675-GPC (BLM), 2019 WL 5677846, at *7 (S.D. Cal. Nov. 1, 2019) ("allegations of 'periodically' or 'from time to time' along with broader language of 'pattern and practice' and 'policy and practice' would support a violation rate under 25%"); *Salazar v. PODS Enters., LLC*, Case No. EDCV 19-260-MWF (KKx), 2019 WL 2023726 at *2-3 (C.D. Cal. May 8, 2019) (holding that an assumed 20% violation rate was conservative and reasonable where complaint alleged "pattern and practice" of meal and rest break violations that resulted in "occasional" inability to take meal and rest periods).

24. Based on a review of Defendant's business records, putative class members worked approximately 59,389 work weeks during the time period November 27, 2020, to April 13, 2024 and received an average base hourly rate of $28.98. (Kumpinskly Decl. ¶ 6).

25. Assuming, *arguendo*, the truth of Plaintiff's allegations, putative class members are entitled to recover at least $1,720,499 for unpaid meal period premium pay, assuming a conservative twenty percent (20%) violation rate: $28.97 (average base hourly rate for putative class members during the four-year period) x 59,389 workweeks x 5 (assumed shifts per workweek over 5 hours) x 20% (assumed violation rate) = **$1,720,499.**

26. Assuming, *arguendo*, the truth of Plaintiff's allegations, putative class members are entitled to recover at least $1,720,499 for unpaid rest period premium pay, assuming a conservative twenty percent (20%) violation rate: $28.97 (average

base hourly rate for putative class members during the four-year period) x 59,389 workweeks x 5 (assumed shifts per workweek over 3.5 hours) x 20% (assumed violation rate) = **$1,720,499.**

(c) The amount placed in controversy by Plaintiff's Fifth Cause of Action – Wage Statement Violations exceeds $2,550,500.

27. In support of her fifth cause of action Plaintiff alleges "As a result of Defendant's failure to pay Plaintiff and other non-exempt employees for all hours they were subject to control of Defendant, including all overtime wages, sick pay wages, Defendant's failure to adequately pay for all overtime/sick pay wages at the appropriate legal rate, and Defendant's failure to pay all meal and rest period premiums at the regular rate of pay, Defendant issued wage statements which failed to identify the gross wages earned accurately, the total hours worked, the net wages earned, and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1,2,5, and 9). (Compl., ¶ 31.)

28. Plaintiff further alleges: "Labor Code 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial violation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." (*Id.*, ¶ 32.)

29. The statute of limitations for a claim for wage statement penalties under Labor Code Section 226(e) is one year. Cal. Civ. Proc. Code § 340(a).

30. Based on a review of Defendant's business records, 294 putative class members received at least one wage statement during the time period November 27, 2023, and April 13, 2024 and Defendant issued a total of 2,771 wage statement during this same time period. (Kumpinsky Decl. ¶ 8).

31. Assuming, arguendo, the truth of Plaintiff's allegations, and assuming

conservatively that each putative class member suffered one wage statement violation for every pay period, putative class members are entitled to recover at least $2,550,500 in wage statement penalties: (294 employees who received at least one wage statement x $250 initial violation rate) + (2,477 subsequent wage statements x $1,000 subsequent violation rate) = **$2,550,500.** *See, e.g., Altamirano v. Shaw Indus., Inc.* C-13-0939 EMC, 2013 WL 2950600, at *11 (N.D. Cal. June 14, 2013)(holding that it is reasonable to assume at 100% violation rate in light of plaintiff's allegations about the pervasiveness of the policies that are the subject of the first three causes of action for failure to pay minimum wages, failure to pay overtime wages, and failure to provide meal periods.)

(d) The amount placed in controversy by Plaintiff's Sixth Cause of Action – Failure to Reimburse Necessary Business Expenses exceeds $296,945.

32. In support of her sixth cause of action Plaintiff alleges: "Defendant required Plaintiff and other non-exempt employees to incur necessary expenses for work-related purposes but did not reimburse non-exempt employees adequately for these necessary expenditures in violation of Labor Code §§ 2802-2804. (Compl., ¶ 34.) Plaintiff further alleges: "Defendant uniformly failed to reimburse non-exempt employees for all necessary costs incurred in discharging their duties." (*Id.*)

33. Plaintiff further alleges that the failure to reimburse necessary business expenses as alleged in the Sixth Cause of Action constitutes unfair competition within the meaning of Business and Professions Code Section 17200. (Compl., ¶ 75.)

34. The statute of limitations for such a claim is four years. Cal. Bus. & Prof. Code § 17208 ("Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued"); *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 178-179 (2000) (the four-year statute of limitations applies to any UCL claim, notwithstanding that the underlying claims have shorter statutes of limitation).

35. Based on a review of Defendant's business records, 564 putative class

members worked 59,389 workweeks during the relevant time period. (Kumpinsky Decl. ¶ 6).

36. Assuming, arguendo, the truth of Plaintiff's allegations, and assuming conservatively that each putative class member incurred $5.00 in unreimbursed business expenses per workweek, putative class members are entitled to recover at least $296,945 in unreimbursed expenses: $5.00 (unreimbursed expenses per workweek) x 59,389 (workweeks) = **$296,945**. *See, e.g., Vallejo v. Sterigenics U.S., LLC*, No. 320CV01788AJBAHG, 2021 WL 2685348, at *6 (S.D. Cal. June 29, 2021) (approving assumption each employee incurred cell phone expenses of $25 per month, or $300 per year, where plaintiff provided no details regarding the total expenses).

E. Summary of Amount in Controversy.

37. Defendant has denied all the material allegations of the Complaint and disputes all liability and Plaintiff's entitlement to any recovery. Given Defendant's denial, as set forth above, the Complaint places in actual controversy more than the required $5 million for purposes of removal under CAFA, even without considering attorney fees. *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (attorneys' fees may properly be included in calculation of the amount of controversy where an underlying statute authorizes an award of attorneys' fees).

Claim	Amount in Controversy
Unpaid Overtime Wages	$2,580,749
Unpaid Meal Premiums	$1,720,499
Unpaid Rest Premiums	$1,720,499
Wage Statement Penalties	$2,550,500
Unreimbursed Business Expenses	$296,945
Total	**$8,869,192**

38. Accordingly, removal of this action under CAFA is proper under Section 1332(d) because the amount placed in controversy by Plaintiff's claims

exceeds the $5,000,000 jurisdictional threshold.

III. COMPLIANCE WITH OTHER REMOVAL REQUIREMENTS

39. As required by 28 U.S.C. § 1446(a), this Notice of Removal is filed in the district court of the United State in which the action is pending. The state court action was pending in the Contra Costa County Superior Court, which is located within the boundaries of this Court. Thus, venue is proper in this Court. 28 U.S.C. § 1441(a).

40. As required by 28 U.S.C. § 1446(b), Defendant hereby provides this Court with copies of all process, pleadings and orders received by Defendant in this action (attached as "**Exhibits A and B**"), Defendant has not received any pleadings, process or orders besides those attached.

41. In accordance with 28 U.S.C. §1446(d), a copy of this Notice is being served upon counsel for Plaintiff, and a notice will be filed with the Clerk of the Superior Court of California for the County of Contra Costa. Notice of compliance shall be filed promptly afterwards with this Court.

42. WHEREFORE, Defendant hereby removes the above-entitled action to this Court.

DATED: January 8, 2025

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: /s/Stacey M. Shim
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Carmen M. Aguado
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